

## **RESPONSE**

In the June 16, 2006 Office Action, the Examiner: requires amendment to the specification; objects to claims 18 as to form; and rejects pending claims 11-29. Specifically the Examiner's rejections include the following:

Claims 9 & 16 under §112 as being indefinite ; and

Claims 1-3, 5, 7-9, 11 15 under §102(b) as being anticipated by US Patent No. 5,115,705 (*Monte et al.*) ; and

Claims 4, 10, 12-14 under §103(a) as being unpatentable over *Monte et al.*

Claims 6 under §103(a) as being unpatentable over *Monte et al.* in view of US Patent publication 2003/0100965 (*Sitrick et al.*)

Claims 16 under §103(a) as being unpatentable over *Monte et al.* in view of Gruenbaum

Reconsideration of the Examiner's rejections is respectfully requested.

### **Section 112 Rejection**

Claims 9 and 16 have been rejected under §112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, with regard to claim 9, the Examiner references the language "human interface" and the phrase "such as". With regard to claim 16 the Examiner reference "an industry standard electronic rack"

Applicant(s) are somewhat at a loss with respect to the rejection of claim 9. For the purposes of this response applicant is assuming that the Examiner intended to reference claim 7. Based on this assumption, applicants have requested an amendment of claim 7 to traverse applicants perception of the "human interface" basis for the Examiner's rejection. Applicants have also amended claim 9 to make it clear that "the language following "such as" is non-limiting.

Applicants have also submitted amendments to claim 16 in line with the Examiner's rejection/suggestion.

**Section 102(b) Section 103(b) Rejections based on *Monte et al.***

The applicant's respectfully request reconsideration of the Examiner's Rejection of Claims 1-3, 5, 7-9, 11 and 15 under 35 U.S.C. §102(b), and Claims 4, 10, and 12-14 under 35 USC §103(b) relying on *Monte et al.*

*Monte et al* represents an technology that appears to be an improvement of prior art electronic musical instruments. The claimed device represents what the industry press and professional new product reviews have dubbed "**A New Class of Super Instrument**" for which the applicants have were awarded the prestigious **Pro Audio Review PAR Excellence Award** in 2005 for the best new product in the MI ("music instrument") industry.

Monte et al. does not disclose or suggest all of the elements of the amended or preamended claims. For example *Monte et al.* makes no mention of an operating system let alone the type of operating system claimed. By way of further example, *Monte et al.* an operating system "capable of running alternative sound synthesis software packages". Furthermore the Examiner does not cite any language in *Monte et al* which touches on this claim limitation.

**Operating System Limitation(s)**

The examiner makes reference to several sections of *Monte et al.* to support a finding of the operating system elements of the claimed inventions. Specifically, the Examiner cites the "Abstract" which makes not reference either to an operating system or to a type of operating system let alone in the context of a general purpose computer or a general purpose personal computer. The Examiner cites "figures 22 and 23" (presumptively this citation includes figures 23A-23P). All of these figures illustrate hardware and make no reference to any type of software. The Examiner also cites several sections of the written specification in addition to the abstract including:

Col 16, lines 28-32

Col 16, lines 36-52

Col 19, lines 40-50

Col 20, lines 10-60

None of these sections make any references to operating systems - let alone the type of operating systems claimed. Additionally, none of these sections of the specification makes any reference to operating systems capable of running alternative sound synthesis software packages as claimed.

#### **Modular Control Surfaces to Change Configuration of User Interface**

The Examiner cites Figure 8 and the brief description of Figure 8 at Col. 5 lines 10-12 which references a “snap-in modular hammer flange having 12 hammer sections which is including in the Fig. 1 keyboard.” There is nothing in *Monte et al.* that discloses or suggests that the modularity be used to present the user with differently configured user interface.

#### **Input Output Module**

The Examiner cites Figure 8 of *Monte et al.* to “disclose the musical instrument which includes a removable input and output module. Figure 8 references a keyboard made of modular like components ie an input interface. Applicant is at a loss to understand how this device is an output device.

#### **Section 103(b) Rejections based on *Monte et al.* and *Sitrick et al.***

The Examiner cites Sitrick in combination with Monte et al to support a §103 rejection of claim 6. Sitrick is not a musical instrument. It is a sheet music presentation and playback machine. It is used to support a performance not to make a performance. There is nothing in Sitrick or Monte to suggest the combination.

#### **Section 103(b) Rejections based on *Monte et al.* and *Gruenbaum***

The Examiner bases a §103 rejection on a combination of Monte et al. and Gruenbaum. Applicant(s) are at a loss to respond to this rejection in that a copy this

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reference was not provided nor was sufficient information provided in the office action to locate this reference.

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The applicant believes that the foregoing fully responds to all outstanding matters, respectfully submits that all remaining claims are in condition for allowance, and respectfully requests that a timely Notice of Allowance be issued so the present application may swiftly pass to issuance.

Should the Examiner have any questions or desire clarification of any sort, or if it would facilitate a fair and efficient favorable disposition the Examiner is invited to telephone the undersigned at the number listed below to schedule a telephone conference to discuss the application. Please reference Attorney Docket No. PRFT002US0.

RESPECTFULLY SUBMITTED,

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